



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

James Lamb, Esq.  
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1025 Vermont Avenue NW, Suite 300  
Washington, DC 20005

**FEB 12 2015**

RE: MUR 6775  
Ready for Hillary PAC and Amy Wills Gray  
in her official capacity as treasurer

Dear Mr. Lamb:

On January 29, 2014, the Federal Election Commission ("Commission") notified your clients, Ready for Hillary PAC and Amy Wills Gray in her official capacity as treasurer, of a complaint designated MUR 6775 alleging violations of the Federal Election Campaign Act of 1971, as amended.

On February 10, 2015, the Commission found that there is no reason to believe that Ready for Hillary PAC and Amy Wills Gray in her official capacity as treasurer violated 52 U.S.C. §§ 30102(e)(1) and 30103(a) (formerly 2 U.S.C. §§ 432(e)(1) and 433(a)) by failing to register with the Commission as Hillary Clinton's authorized committee; 52 U.S.C. § 30102(e)(3)(A) (formerly 2 U.S.C. § 432(e)(3)(A)) by serving as Hillary Clinton's authorized committee; and 52 U.S.C. § 30120 (formerly 2 U.S.C. § 441d) by failing to state that the January 5, 2014, "Free Hillary Clinton Bumper Sticker" e-mail was authorized by Hillary Clinton. The Factual and Legal Analysis, which explains these findings by the Commission, is enclosed for your information.

On the same date, the Commission considered additional recommendations but there were an insufficient number of votes to find reason to believe that Ready for Hillary PAC and Amy Wills Gray in her official capacity as treasurer violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)) by failing to report a disbursement for the rental of an e-mail list from Friends of Hillary. In addition, there were an insufficient number of votes for the Commission to approve recommendations related to whether Ready for Hillary PAC and Amy Wills Gray in her official capacity as treasurer violated 11 C.F.R. §§ 100.72(a) and 101.131(a) by accepting or authorizing the receipt of excessive and prohibited contributions; and 52 U.S.C. § 30120 (formerly 2 U.S.C. § 441d) by failing to state that the January 5, 2014, "Free Hillary Clinton Bumper Sticker" e-mail was authorized by Friends of Hillary. Accordingly, the Commission closed its file in this matter. A Statement of Reasons further explaining the basis for these determinations by the Commission will follow.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003); Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Allison T. Steinle, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



William A. Powers  
Assistant General Counsel

[Enclosure]

1402444-14748

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **MUR:** 6775

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7 **RESPONDENTS:** Ready for Hillary PAC and Amy Wills Gray in her  
8 Official Capacity as Treasurer  
9

10 **I. INTRODUCTION**

11 This matter was generated by a Complaint filed with the Federal Election Commission  
12 ("Commission") by Stop Hillary PAC, alleging violations of the Federal Election Campaign Act  
13 of 1971, as amended, (the "Act") by Ready for Hillary PAC and Amy Wills Gray in her Official  
14 Capacity as Treasurer, Hillary Clinton, and Friends of Hillary and Shelly Moskwa in her Official  
15 Capacity as Treasurer. In January 2014, Ready for Hillary PAC sent an e-mail to numerous  
16 recipients offering free "Ready for Hillary" bumper stickers and otherwise encouraging support  
17 for Clinton's potential candidacy. The Complaint alleges that Ready for Hillary PAC's use of an  
18 e-mail list obtained from Friends of Hillary to distribute this e-mail indicates that Clinton or her  
19 agents authorized the message, that the contributions and expenditures of Ready for Hillary PAC  
20 in connection with Clinton's possible candidacy therefore must be attributed to Clinton herself,  
21 and that Clinton triggered candidate status as a result.

22 After reviewing the Complaint, Responses, and other available information, the  
23 Commission concludes that the facts presented here do not suggest that Clinton became a  
24 candidate under the Act.

1    **II.    FACTUAL AND LEGAL ANALYSIS**

2            **A.    Background**

3            On January 25, 2013, Ready for Hillary PAC registered with the Commission as an  
4    independent expenditure-only political committee that supports more than one candidate.<sup>1</sup>  
5    Ready for Hillary PAC states that its purpose is to “encourage Hillary [Clinton] to run” and show  
6    Clinton that if she decides to run, she will have a “grassroots army of supporters behind her who  
7    are ready to help her win.”<sup>2</sup> On May 28, 2014, Ready for Hillary PAC provided notice to the  
8    Commission through a Miscellaneous Form 99 that it had converted to a non-connected political  
9    committee that maintains a “non-contribution” account and created an additional depository  
10   account for the purpose of making contributions to candidates and committees in accordance  
11   with *Carey v. FEC*, Civ. No. 11-259-RMC (D.D.C. 2011).<sup>3</sup> Ready for Hillary PAC has raised  
12   approximately \$8.2 million and spent approximately \$7.4 million through the first half of 2014.<sup>4</sup>

13           Friends of Hillary served as Clinton’s principal authorized campaign committee for the  
14   office of Senator from New York in 2000 and 2006. Friends of Hillary has not terminated.  
15   Hillary Clinton for President is Clinton’s former authorized campaign committee for the office of  
16   President in 2008.<sup>5</sup>

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<sup>1</sup>        Ready for Hillary PAC, Statement of Organization (filed Jan. 25, 2013).

<sup>2</sup>        *See* Compl. at 2, Ex. G.

<sup>3</sup>        Ready for Hillary PAC, Form 99 (filed May 28, 2014).

<sup>4</sup>        Ready for Hillary PAC, 2014 July Quarterly Rpt. (filed July 15, 2014); Ready for Hillary PAC, 2013  
Year-End Report (amended Sept. 2, 2014).

<sup>5</sup>        Hillary Clinton for President terminated in February 2013. Hillary Clinton for President, Termination  
Approval (Feb. 26, 2014).

1 According to the Complaint, Ready for Hillary PAC used a mailing list owned by Friends  
2 of Hillary to distribute an e-mail to members of that list in January 2014.<sup>6</sup> The Complaint  
3 attaches an article from a periodical's online blog discussing the e-mail, as well as what appears  
4 to be a copy of the content of the e-mail dated January 5, 2014.<sup>7</sup> Those sources reflect that the  
5 e-mail originated from "General Wes Clark [info@hillaryclinton.com]," with the subject line  
6 "Free Hillary Clinton Bumper Sticker." *Id.* The text reads as follows:

7 Have you picked up your free Ready for Hillary bumper sticker yet?

8  
9 Please take a moment to read this special message from General Wes Clark.  
10 Ready For Hillary PAC is solely responsible for the content of this message.

11  
12 Grassroots movements happen when neighbors talk to neighbors and tell them  
13 to get involved.

14  
15 One of the best ways to spark these conversations about Hillary potentially  
16 running in 2016 is by showing your support right now.

17  
18 Have you picked up your free Ready for Hillary bumper sticker yet?

19  
20 <https://www.readyforhillary.com/Free-Stickers>

21  
22 Hillary has what it takes to be the next President of the United States. But  
23 today, as she decides whether to run she needs to see our support.

24  
25 Now is the time to get our support for Hillary organized and ready for 2016.  
26 Claim your free sticker: Proudly put your support for Hillary on display and  
27 tell your friends to do the same.  
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<sup>6</sup> Compl. at 1-2.

<sup>7</sup> See *id.*, Ex. A (attaching Zeke J. Miller, *Hillary Clinton Campaign Rents Email List to Pro-Hillary Super PAC*, TIME, Jan. 5, 2014, available at <http://swampland.time.com/2014/01/05/hillary-clinton-rents-email-list-to-pro-hillary-super-pac/>); *id.*, Ex. B (attaching *She Makes It Official?*, DRUDGE REPORT (Jan. 5, 2014), <http://drudgereport.com/flash3b.htm>).

1 Thanks for joining with us,

2  
3 General Wes Clark.<sup>8</sup>

4 The hillaryclinton.com URL address is registered to Friends of Hillary.<sup>9</sup> According to  
5 media reports cited in the Complaint, Clinton's 2008 presidential campaign rented its e-mail list  
6 to Ready for Hillary PAC in connection with the January 2014 e-mail message.<sup>10</sup> Seth  
7 Bringman, a spokesman for Ready for Hillary PAC, reportedly stated that Ready for Hillary PAC  
8 rented the hillaryclinton.com e-mail list to "connect with [Clinton's] past supporters."<sup>11</sup>

9 Ready for Hillary PAC's Response acknowledges that it sent the e-mail using Friend of  
10 Hillary's e-mail list, and asserts that it paid Friends of Hillary the usual and normal charge —  
11 \$136,841.70 for a one-time use.<sup>12</sup> The Response states that Friends of Hillary used Trilogy  
12 Interactive ("Trilogy") to handle certain aspects of the transaction, "including collecting the  
13 payment" for the e-mail list and the "actual sending" of the e-mail in question.<sup>13</sup>

14 With respect to its use of the hillaryclinton.com e-mail address as the sender's address,  
15 Ready for Hillary PAC states that it was Trilogy's standard practice to include the owner of the  
16 list in the "from" line for security purposes, to protect against unapproved usage of the list, and

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<sup>8</sup> *Id.*, Ex. B. Ready for Hillary PAC's Response attaches what appears to be a recipient's printed copy of the e-mail dated January 3, 2014. Ready for Hillary PAC and Amy Wills Gray Resp., Ex. 1 ("Ready for Hillary PAC Resp."). This version differs slightly from the one provided in the Complaint, in that it includes a "CONTRIBUTE" link and a disclaimer box at the bottom of the e-mail. *Id.* Ready for Hillary PAC's Response does not address the discrepancies or the fact that it appears that the e-mail may have been sent out over a period of several days. *Id.*

<sup>9</sup> Compl. at 1-2, Ex. D.

<sup>10</sup> *Id.*, Ex. A.

<sup>11</sup> *Id.*

<sup>12</sup> Ready for Hillary PAC Resp. at 2-3.

<sup>13</sup> *Id.* at 2..

1 for legal compliance with federal SPAM opt-out laws.<sup>14</sup> It further asserts that Ready for Hillary  
2 PAC was responsible for the content and date of the e-mail.<sup>15</sup> It also represents that Friends of  
3 Hillary did not authorize, suggest, draft, review, or edit the e-mail, and that the e-mail was not  
4 made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate,  
5 a candidate's authorized committee, or a political party committee.<sup>16</sup>

6 Friends of Hillary's disclosure reports indicate that it received 18 payments for list rentals  
7 between 2013 and 2014, ranging in amount from \$260 to \$203,683. Friends of Hillary reported  
8 these payments as coming from Trilogy, another list brokerage firm, and directly from campaign  
9 committees.

#### 10 B. Legal Analysis

11 The Complaint alleges that by conveying the mailing list to Ready for Hillary PAC and  
12 permitting it to use the hillaryclinton.com URL, Clinton and Friends of Hillary were acting "in  
13 furtherance" of Ready for Hillary PAC's stated goals and therefore gave their consent to Ready  
14 for Hillary PAC to accept contributions and make expenditures on Clinton's behalf.<sup>17</sup> The  
15 Complaint asserts that, by giving this consent, Clinton triggered candidate status under the Act  
16 and, for the same reason, that Ready for Hillary PAC became an authorized committee of  
17 Clinton that improperly failed to register as such with the Commission.<sup>18</sup> Moreover, the  
18 Complaint alleges that, because Ready for Hillary PAC is in truth Clinton's authorized

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<sup>14</sup> *Id.* at 2-3.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.*

<sup>17</sup> Compl. at 2-3.

<sup>18</sup> *Id.* at 3.

1 committee, it is violating the Act by supporting more than one candidate and by accepting  
2 excessive and prohibited contributions on Clinton's behalf.<sup>19</sup> Finally, the Complaint alleges that  
3 the e-mail did not include the proper disclaimer because it failed to acknowledge that it was  
4 authorized by Clinton or that Ready for Hillary PAC paid for the communication.<sup>20</sup>

5 1. Even If Authorized by Clinton, the Exploratory Activities of Ready for  
6 Hillary PAC Would Not Trigger Candidate Status

7 Under the Act, an individual is deemed a "candidate" if he or she receives contributions  
8 or makes expenditures in excess of \$5,000, or consents to another doing so on the individual's  
9 behalf.<sup>21</sup> Once that threshold is satisfied, the candidate has 15 days to designate a principal  
10 campaign committee by filing a Statement of Candidacy with the Commission.<sup>22</sup> The principal  
11 campaign committee, in turn, must file a Statement of Organization within ten days of its  
12 designation and must file disclosure reports with the Commission in accordance with 52 U.S.C.  
13 §§ 30104(a) and (b) (formerly 2 U.S.C. §§ 434(a) and (b)).<sup>23</sup> In addition, a candidate may not  
14 designate a political committee that supports or has supported more than one candidate as his or  
15 her authorized committee, unless that political committee is the national political party of the  
16 candidate for office of President nominated by that party or is a joint fundraising committee.<sup>24</sup>

17 The Commission has created a limited exemption to the definitions of contribution and  
18 expenditure — and therefore to the \$5,000 candidacy threshold — to allow individuals to

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 3-4.

<sup>21</sup> 52 U.S.C. § 30101(2)(A), (B) (formerly 2 U.S.C. § 431(2)(A), (B)); 11 C.F.R. § 100.3(a).

<sup>22</sup> 52 U.S.C. § 30102(e)(1) (formerly 2 U.S.C. § 432(e)(1)); 11 C.F.R. § 101.1(a).

<sup>23</sup> 52 U.S.C. § 30103(a) (formerly 2 U.S.C. § 433(a)); 11 C.F.R. § 102.1(a).

<sup>24</sup> 52 U.S.C. § 30102(e)(3)(A) (formerly 2 U.S.C. § 432(e)(3)(A)); 11 C.F.R. § 102.13(c).

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1 conduct certain activities designed to evaluate a potential candidacy (e.g., to "test the waters").<sup>25</sup>  
2 Funds received and payments made "solely for the purpose of determining whether an individual  
3 should become a candidate" are not considered contributions or expenditures under the Act.<sup>26</sup>  
4 An individual who is testing the waters need not register or file disclosure reports with the  
5 Commission unless and until the individual subsequently decides to run for federal office.<sup>27</sup>

6 Thus, even assuming that Clinton authorized Ready for Hillary PAC to receive and spend  
7 funds exceeding \$5,000 on her behalf as the Complaint alleges, she would not become a  
8 candidate as a result of those activities so long as they were related only to testing the waters.<sup>28</sup>  
9 And the available record here reflects that Clinton and Ready for Hillary PAC have confined  
10 their activities solely to evaluating a *potential* candidacy. Clinton has publicly stated that she has  
11 not decided whether she will run for the office of President in 2016, and no other information  
12 indicates that she has taken steps designed to amass campaign funds for a future candidacy.  
13 With respect to Ready for Hillary PAC, the record reflects that it seeks to encourage Clinton to  
14 run and to build support for a potential Clinton candidacy,<sup>29</sup> not an existing candidacy. Ready

<sup>25</sup> 11 C.F.R. §§ 100.72, 100.131. Commission regulations describe five non-exhaustive examples of activities that indicate that an individual is not merely testing the waters, but has decided to become a candidate for federal office: (1) using general public political advertising to publicize his or her intention to campaign for federal office; (2) raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she becomes a candidate; (3) making or authorizing written or oral statements that refer to him or her as a candidate for a particular office; (4) conducting activities in close proximity to the election or over a protracted period of time; and (5) taking action to qualify for the ballot under state law. *Id.*

<sup>26</sup> *Id.* These funds, however, are subject to the limitations and prohibitions of the Act. *Id.*

<sup>27</sup> See, e.g., Advisory Op. 1981-32 (Askew); Advisory Op. 1979-26 (Grassley).

<sup>28</sup> See 11 C.F.R. §§ 100.72, 100.131.

<sup>29</sup> Ready for Hillary PAC's purpose appears analogous to that of a draft committee. Although the term "draft committee" is not defined in the Act or Commission regulations, some courts have addressed the concept of draft committees in assessing the political committee status of certain groups. See *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380 (D.C. Cir. 1981) ("MNPL") (holding that Congress had never acted expressly to

1 for Hillary PAC's materials are framed in terms of encouraging Clinton to run, and do not  
2 expressly refer to Clinton as a candidate.<sup>30</sup> The e-mail in question, for example, states that  
3 showing Clinton support will "spark . . . conversations about Hillary *potentially* running in  
4 2016."<sup>31</sup> It further states that "today, as *she decides whether to run* she needs to see our  
5 support."<sup>32</sup> Thus, it appears that the actions of both Clinton and Ready for Hillary PAC are  
6 aimed at evaluating the feasibility of her candidacy and do not signify that Clinton has decided to  
7 become a candidate.<sup>33</sup>

bring "draft" groups within the coverage of the contribution limitations); *FEC v. Citizens for Democratic Alternatives in 1980*, 655 F.2d 397 (D.C. Cir. 1981) (adopting reasoning of *MNPL*); *FEC v. Florida for Kennedy Committee*, 681 F.2d 1281 (11th Cir. 1982) (holding that "draft" groups were not within the Act's jurisdiction because there is no candidate, and political committees must be under the control of a candidate or have the major purpose to nominate or elect a candidate); *see also Unity08 v. FEC*, 596 F.3d 861 (D.C. Cir 2010) (holding that Unity08, which sought to facilitate an online nominating process to choose a mixed party ticket for President and Vice President, was not subject to regulation as a political committee unless and until it selected a "clearly identified" candidate); *FEC v. GOPAC*, 917 F. Supp. 851 (D.D.C. 1996) (holding that organization's support for a "farm team" of future candidates did not constitute support for a federal candidate for purposes of determining organization's major purpose).

The Commission also has promulgated regulations concerning names for political committees that reference draft committees. *See* 11 C.F.R. § 102.14(b)(2) (providing that a "political committee established solely to draft an individual or to encourage him or her to become a candidate may include the name of such individual in the name of the committee provided the committee's name clearly indicates that it is a draft committee"). In Advisory Op. 1995-09 (NewtWatch PAC), the Commission determined that the naming restrictions apply to the use of an individual's first name if it clearly conveys the identity of the candidate. Because Ready for Hillary PAC is registered with the Commission as a hybrid PAC that supports more than one candidate, however, it is not clear that it was established "solely to draft" Clinton and thus falls within the scope of the draft committee regulation. Regardless, because we conclude that Clinton has not become a candidate, the provisions of the Act and Commission regulations that generally prohibit an unauthorized committee from "includ[ing] the name of any candidate in its name" are inapposite here. *See* 52 U.S.C. § 30102(e)(4) (formerly 2 U.S.C. § 432(c)(4)); 11 C.F.R. § 102.14(a); Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees, 59 Fed. Reg. 17,267, 17,269 (Apr. 12, 1994).

<sup>30</sup> *See* Ready for Hillary, <https://www.readyforhillary.com> (last visited Sept. 16, 2014).

<sup>31</sup> Compl., Ex. B (emphasis added).

<sup>32</sup> *Id.* (emphasis added).

<sup>33</sup> *See, e.g.,* Advisory Op. 1981-32 (Askew).

1 Because neither Clinton nor Ready for Hillary PAC appear to have received contributions  
2 or made expenditures in excess of \$5,000 in connection with seeking her nomination or election  
3 to federal office, Clinton would not have triggered candidate status under the Act even if she had  
4 consented to the activities of Ready for Hillary PAC. Because Clinton does not appear to be a  
5 candidate under the Act, she is not required to designate a principal campaign committee, and the  
6 Commission finds no reason to believe that Ready for Hillary PAC violated 52 U.S.C.  
7 §§ 30102(e)(1) and 30103(a) (formerly 2 U.S.C. §§ 432(e)(1) and 433(a)) by failing to register  
8 with the Commission as Clinton's authorized committee. Further, because Clinton does not  
9 appear to be a candidate and did not designate Ready for Hillary PAC as her principal campaign  
10 committee, the Commission finds no reason to believe that Ready for Hillary PAC violated 52  
11 U.S.C. § 30102(e)(3)(A) (formerly 2 U.S.C. § 432(e)(3)(A)) by serving as Clinton's authorized  
12 committee.

13 2. There Is No Reason to Believe that Ready for Hillary PAC Failed to  
14 Provide an Adequate Disclaimer

15 If a communication by a political committee is authorized by a candidate, an authorized  
16 political committee, or its agents, then it must state that it has been paid for by such authorized  
17 political committee.<sup>34</sup> If a communication is not authorized by a candidate, an authorized  
18 political committee of a candidate, or its agents, then it must state the name and permanent street  
19 address, telephone number or World Wide Web address of the person who paid for the  
20 communication and state that it is not authorized by any candidate or candidate's committee.<sup>35</sup>

<sup>34</sup> 52 U.S.C. § 30120(a)(1) (formerly 2 U.S.C. § 441d(a)(1)); 11 C.F.R. §§ 110.11(a)(1), (b)(2).

<sup>35</sup> 52 U.S.C. § 30120(a)(3) (formerly 2 U.S.C. § 441d(a)(3)); 11 C.F.R. § 110.11(b)(3).

1 Here, the version of the e-mail attached to Ready for Hillary PAC's Response included a  
2 sufficient disclaimer for an unauthorized committee.<sup>36</sup> Moreover, because Clinton was not a  
3 candidate, even if she had authorized the e-mail, it would not require any further disclaimer.<sup>37</sup>  
4 Accordingly, the Commission finds no reason to believe that Ready for Hillary PAC failed to  
5 state that the January 5, 2014, "Free Hillary Clinton Bumper Sticker" e-mail was authorized by  
6 Clinton in violation of 52 U.S.C. § 30120 (formerly 2 U.S.C. § 441d).

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<sup>36</sup> See Ready for Hillary PAC Resp., Ex. 1 (including a disclaimer box stating that the e-mail was paid for by Ready for Hillary PAC and not authorized by any candidate or candidate's committee and providing a World Wide Web address for Ready for Hillary PAC).

<sup>37</sup> 52 U.S.C. § 30120(a)(1); 11 C.F.R. § 110.11(b)(2); *see also* MUR 6256 (Babich).